

REMARKS

Applicant would like to thank the Examiner for withdrawing the rejection to claim 10 under 35 U.S.C. § 112, second paragraph. Reconsideration and withdrawal of the rejections of the claims set forth in the Official Action of February 8, 2005, are respectfully requested in view of the following remarks.

Status of the Claims

Claims 1-19 are currently pending.

Claims 1-16 were rejected under 35 U.S.C. § 101.

Claims 1-4, 6-10 and 17 were rejected under 35 U.S.C. § 102(e).

Claims 5, 11-16, 18 and 19 were rejected under 35 U.S.C. § 103(a).

Claims 1, 7, 12 and 17 have been amended.

Rejections under 35 U.S.C. § 101

In the Office Action dated February 8, 2005, claims 1-16 were rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. Applicant has amended claims 1, 7 and 12 such that the recited process applies, involves, uses, or advances the technological arts. In view of the amendments to claims 1, 7 and 12, Applicant respectfully requests reconsideration and withdrawal of the rejections to claims 1-16 under 35 U.S.C. § 101.

Rejections under 35 U.S.C. § 102

Claims 1-4, 6-10 and 17 have been rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,032,125 to Ando (“Ando”). Applicant respectfully traverses these rejections and requests reconsideration and withdrawal of this rejection based on the following remarks.

Claims 1 and 7 have been amended to clarify two occurrences of collecting sampled sales data. Ando discloses storing sales results from a 13-month period (4: 34-36), and determining patterns by comparing the data collected with past forecasts. These patterns are used to forecast future sales (5: 38-47). Although Ando discloses using the collected sales data in a number of ways (*e.g.*, stores the 13-months sales results (4: 34-36); obtaining . . . the last 18 weeks (5: 23); compared with the actual sales results value of every week (5: 43-44)), Ando discloses only one collection of sales data, *i.e.*, for the 13-month period. Ando does not disclose collecting sampled sales data for a reference period and collecting sampled sales data for a current sub-period of interest as claimed in the present invention. As claimed in the present invention, the collected sampled sales data for a current sub-period of interest being later in time requires two collection events - one for a reference period and one for the sub-period of interest. In view of the complete absence of this claim limitation in Ando, and the fact that the Ando does not disclose each and every element of claims 1 and 7, there can be no anticipation of the claimed invention by Ando. Accordingly, the rejection under 35 U.S.C. § 102(e) should be withdrawn and claims 1 and 7 should be allowed.

Claims 2-4 and 6 depend from claim 1, and should be patentable for at least those reasons recited above. Thus, the rejection of claims 1-4 and 6 under 35 U.S.C. § 102(e) should also be withdrawn.

Claims 8-10 depend from claim 7 and should be patentable for at least those reasons recited above. Thus, the rejection to claims 7-10 under 35 U.S.C. § 102(e) should also be withdrawn.

Claim 17 is a system claim, and has been amended to substantially correspond to the method of claim 1. The remarks relating to claim 1, set out above, are equally applicable to

claim 17, and thus the rejection to claim 17 under 35 U.S.C. § 102(e) should likewise be withdrawn.

Rejections under 35 U.S.C. § 103

Claims 5 and 11 were rejected under 35 U.S.C. § 103(a) as being obvious in light of Ando in view of U.S. Patent No. 5,420,786 to Felthausen et al. (“Felthausen”). Reconsideration and withdrawal of these rejections are respectfully requested based on the following remarks.

Claims 1 and 7 have been amended to clarify two occurrences of collecting sampled sales data. Claim 12 already recites the limitation of collecting sampled sales data from a first plurality of sources for a current day of interest, and collecting sampled sales data for a reference week from a second plurality of sources, said reference week being offset in time.

As to claims 5 and 11, which depend from amended claims 1 and 7, respectfully, Ando does not disclose two occurrences of collecting sampled sales data as claimed in the present invention. Felthausen does not cure the deficiencies of Ando, because Felthausen discloses only one occurrence of collecting sales data (Felthausen, 6: 2-5, “Product sales data generated at each outlet is transferred to the central station”). Thus, claims 5 and 11 are not rendered obvious by the combination of Ando and Felthausen for at least those reasons recited above in connection with claims 1 and 7, and this rejection should be withdrawn.

Claims 12-14 and 18, of which claims 13 and 14 depend from amended claim 12 and claim 18 depends from amended claim 17, were rejected under 35 U.S.C. § 103(a) as being obvious in light of Ando, in view of U.S. Patent No. 6,021,394 to Takahashi (“Takahashi”). Ando does not disclose two occurrences of collecting sampled sales data as

claimed in the present invention. Takahashi does not cure the deficiencies of Ando, because Takahashi has one collection of sales data event for each sales estimation event (Takahashi, 4: 32-34). As such, Ando, alone or in combination with Takahashi, does not teach or suggest the subject matter of claims 12-14 and 18 and is not rendered obvious in light of the alleged combination and this rejection should be withdrawn.

Claims 15, 16 and 19, of which 15 and 16 depend from amended claim 12 and claim 19 depends from amended claim 17, were rejected under 35 U.S.C. § 103(a) as being obvious in light of Ando, in view of Takahashi, in further view of Felthauser. Ando does not disclose two occurrences of collecting sampled sales data as claimed in the present invention. Neither Takahashi nor Felthauser cure the deficiencies of Ando, as described above. As such, Ando, alone or in combination with Takahashi and Felthauser, does not teach or suggest the subject matter of claims 15, 16 and 19 and the claims are not rendered obvious in light of the alleged combination and this rejection should be withdrawn.

Conclusion

Based on the foregoing, Applicants submit that the present application is now in condition for allowance. A Notice of Allowance is respectfully requested. The Commissioner is hereby authorized to charge payment of the fee associated with the Request for Continued Examination, and any additional fees associated with this communication, to Deposit Account No. 02-4377.

Respectfully submitted,

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Enclosure